

they are not isolated for use or sale as a specific end product:

- (i) Acetophenone (CAS #98–86–2);
  - (ii) 6-Chloro-2-methyl aniline (CAS #87–63–8);
  - (iii) 2-Amino-3-hydroxybenzoic acid (CAS #548–93–6); and
  - (iv) Acetone (CAS #67–64–1).
- (3) Examples of activities that are not considered “production by synthesis” under part

715 of the CWC, which means the end products resulting from such activities would not be declared under part 715, are as follows:

- (i) Fermentation;
- (ii) Extraction;
- (iii) Purification;
- (iv) Distillation; and
- (v) Filtration.

**SUPPLEMENT NO. 3 TO PART 715—DEADLINES FOR SUBMISSION OF DECLARATIONS, NO CHANGES AUTHORIZATION FORMS, AND AMENDMENTS FOR UNSCHEDULED DISCRETE ORGANIC CHEMICAL (UDOC) FACILITIES**

Declarations	Applicable forms	Due dates
Annual Declaration on Past Activities (previous calendar year)—Declared plant site.	Certification, UDOC, A (as appropriate), B (optional).	February 28 of the year following any calendar year in which the production of UDOCs exceeded the applicable declaration threshold in §715.1(a)(1) of the CWC.
No Changes Authorization Form (declaration required, but no changes to data contained in previously submitted annual declaration on past activities (previous calendar year)—Declared plant site.	No Changes Authorization Form .....	February 28 of the year following any calendar year in which the production of UDOCs exceeded the applicable declaration threshold in §715.1(a)(1) of the CWC.
Amended Declaration .....	Certification, UDOC, A (as appropriate), B (optional).	
—Declaration information .....	.....	—15 calendar days after change in information.
—Company information .....	.....	—30 calendar days after change in information.
—Post-inspection letter .....	.....	—45 calendar days after receipt of letter.

**PART 716—INITIAL AND ROUTINE INSPECTIONS OF DECLARED FACILITIES**

Sec.

- 716.1 General information on the conduct of initial and routine inspections.
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SUPPLEMENT NO. 1 TO PART 716—NOTIFICATION, DURATION, AND FREQUENCY OF INSPECTIONS

SUPPLEMENT NOS. 2–3 TO PART 716 [RESERVED]

AUTHORITY: 22 U.S.C. 6701 et seq.; E.O. 13128, 64 FR 36703, 3 CFR 1999 Comp., p. 199.

SOURCE: 71 FR 24929, Apr. 27, 2006, unless otherwise noted.

**§716.1 General information on the conduct of initial and routine inspections.**

This part provides general information about the conduct of initial and routine inspections of declared facilities subject to inspection under CWC Verification Annex Part VI(E), Part VII(B), Part VIII(B) and Part IX(B). See part 717 of the CWC for provisions concerning challenge inspections.

(a) *Overview.* Each State Party to the CWC, including the United States, has agreed to allow certain inspections of declared facilities by inspection teams employed by the Organization for the Prohibition of Chemical Weapons (OPCW) to ensure that activities are consistent with obligations under the Convention. BIS is responsible for leading, hosting and escorting inspections of all facilities subject to the provisions of the CWC (see §710.2 of the CWC).

(b) *Declared facilities subject to initial and routine inspections*—(1) *Schedule 1 facilities.* (i) Your declared facility is subject to inspection if it produced in excess of 100 grams aggregate of Schedule 1 chemicals in the previous calendar year or anticipates producing in excess of 100 grams aggregate of Schedule 1 chemicals during the next calendar year.

(ii) If you are a new Schedule 1 production facility pursuant to § 712.4 of the CWC, your facility is subject to an initial inspection within 200 days of submitting an initial declaration.

NOTE TO § 716.1(b)(1): All Schedule 1 facilities submitting a declaration are subject to inspection.

(2) *Schedule 2 plant sites*—(i) *Inspection thresholds for Schedule 2 plant sites.* Your declared plant site is subject to inspection if at least one plant on your plant site produced, processed or consumed, in any of the three previous calendar years, or you anticipate that at least one plant on your plant site will produce, process or consume in the next calendar year, any Schedule 2 chemical in excess of the following:

(A) 10 kg of chemical BZ: 3-Quinuclidinyl benzilate (see Schedule 2, Part A, paragraph 3 in Supplement No. 1 to part 713 of the CWC);

(B) 1 metric ton of chemical PFIB: 1,1,3,3,3-Pentafluoro-2(trifluoromethyl)-1-propene or any chemical belonging to the Amiton family (see Schedule 2, Part A, paragraphs 1 and 2 in Supplement No. 1 to part 713 of the CWC); or

(C) 10 metric tons of any chemical listed in Schedule 2, Part B (see Supplement No. 1 to part 713 of the CWC).

(ii) *Initial inspection for new Schedule 2 plant sites.* Your declared plant site is subject to an initial inspection within the first year after submitting a declaration, if at least one plant on your plant site produced, processed or consumed in any of the three previous years, or you anticipate that at least one plant on your plant site will produce, process or consume in the next calendar year, any Schedule 2 chemical in excess of the threshold quantities set forth in paragraphs (b)(2)(i)(A) through (C) of this section.

NOTE TO § 716.1(b)(2): The applicable inspection threshold for Schedule 2 plant sites is

ten times higher than the applicable declaration threshold. Only declared plant sites, comprising at least one declared plant that exceeds the applicable inspection threshold, are subject to inspection.

(3) *Schedule 3 plant sites.* Your declared plant site is subject to inspection if the declared plants on your plant site produced during the previous calendar year, or you anticipate they will produce in the next calendar year, in excess of 200 metric tons aggregate of any Schedule 3 chemical.

NOTE TO § 716.1(b)(3): The methodology for determining a declarable and inspectable plant site is different. A Schedule 3 plant site that submits a declaration is subject to inspection only if the aggregate production of a Schedule 3 chemical at all declared plants on the plant site exceeds 200 metric tons.

(4) *Unscheduled discrete organic chemical plant sites.* Your declared plant site is subject to inspection if it produced by synthesis more than 200 metric tons aggregate of unscheduled discrete organic chemicals (UDOC) during the previous calendar year.

NOTE 1 TO § 716.1(b)(4): You must include amounts of unscheduled discrete organic chemicals containing phosphorus, sulfur or fluorine in the calculation of your plant site's aggregate production of unscheduled discrete organic chemicals.

NOTE 2 TO § 716.1(b)(4): All UDOC plant sites that submit a declaration based on § 715.1(a)(1)(i) of the CWC are subject to a routine inspection.

(c) *Responsibilities of the Department of Commerce.* As the host and escort for the international Inspection Team for all inspections of facilities subject to the provisions of the CWC under this part, BIS will:

- (1) Lead on-site inspections;
- (2) Provide Host Team notification to the facility of an impending inspection;
- (3) Take appropriate action to obtain an administrative warrant in the event the facility does not consent to the inspection;
- (4) Dispatch an advance team to the vicinity of the site to provide administrative and logistical support for the impending inspection and, upon request, to assist the facility with inspection preparation;
- (5) Escort the Inspection Team on-site throughout the inspection process;

(6) Assist the Inspection Team with verification activities;

(7) Negotiate the development of a site-specific facility agreement, if appropriate (see §716.6); and

(8) Ensure that an inspection adheres to the Convention, the Act and any warrant issued thereunder, and a site-specific facility agreement, if concluded.

**§716.2 Purposes and types of inspections of declared facilities.**

(a) *Schedule 1 facilities*—(1) *Purposes of inspections.* The aim of inspections of Schedule 1 facilities is to verify that:

(i) The facility is not used to produce any Schedule 1 chemical, except for the declared Schedule 1 chemicals;

(ii) The quantities of Schedule 1 chemicals produced, processed or consumed are correctly declared and consistent with needs for the declared purpose; and

(iii) The Schedule 1 chemical is not diverted or used for purposes other than those declared.

(2) *Types of inspections*—(i) *Initial inspections.* (A) During initial inspections of declared Schedule 1 facilities, in addition to the verification activities listed in paragraph (a)(1) of this section, the Host Team and the Inspection Team will draft site-specific facility agreements (see §716.6 of the CWCR) for the conduct of routine inspections.

(B) For new Schedule 1 production facilities declared pursuant to §712.4 of the CWCR, the U.S. National Authority, in coordination with BIS, will conclude a facility agreement with the OPCW before the facility begins producing above 100 grams aggregate of Schedule 1 chemicals.

(ii) *Routine inspections.* During routine inspections of declared Schedule 1 facilities, the verification activities listed in paragraph (a)(1) of this section will be carried out pursuant to site-specific facility agreements (see §716.6 of the CWCR) developed during the initial inspections and concluded between the U.S. Government and the OPCW pursuant to the Convention.

(b) *Schedule 2 plant sites*—(1) *Purposes of inspections.* (i) The general aim of inspections of declared Schedule 2 plant sites is to verify that activities are in accordance with obligations under the

Convention and consistent with the information provided in declarations. Particular aims of inspections of declared Schedule 2 plant sites are to verify:

(A) The absence of any Schedule 1 chemical, especially its production, except in accordance with the provisions of the Convention;

(B) Consistency with declarations of production, processing or consumption of Schedule 2 chemicals; and

(C) Non-diversion of Schedule 2 chemicals for activities prohibited under the Convention.

(ii) During initial inspections, Inspection Teams shall collect information to determine the frequency and intensity of subsequent inspections by assessing the risk to the object and purpose of the Convention posed by the relevant chemicals, the characteristics of the plant site and the nature of the activities carried out there. The Inspection Team will take the following criteria into account, *inter alia*:

(A) The toxicity of the scheduled chemicals and of the end-products produced with them, if any;

(B) The quantity of the scheduled chemicals typically stored at the inspected site;

(C) The quantity of feedstock chemicals for the scheduled chemicals typically stored at the inspected site;

(D) The production capacity of the Schedule 2 plants; and

(E) The capability and convertibility for initiating production, storage and filling of toxic chemicals at the inspected site.

(2) *Types of inspections*—(i) *Initial inspections.* During initial inspections of declared Schedule 2 plant sites, in addition to the verification activities listed in paragraph (b)(1) of this section, the Host Team and the Inspection Team will generally draft site-specific facility agreements for the conduct of routine inspections (see §716.6 of the CWCR).

(ii) *Routine inspections.* During routine inspections of declared Schedule 2 plant sites, the verification activities listed in paragraph (b)(1) of this section will be carried out pursuant to any appropriate site-specific facility agreements developed during the initial inspections (see §716.6 of the CWCR), and